

REMARKS

Applicants submit this Amendment in reply to the final Office Action mailed November 25, 2008. By this Amendment, Applicants amend claims 1, 2, 4, 10-12, 14, 15, 17, 23-25, 27, 78, 83, 88, 89, 91-95, and 97-101 and cancel claims 90 and 96. The originally filed specification, drawings, and claims fully support the subject matter of amended claims 1, 14, 78, 83 91-95, and 97-101. Accordingly, claims 1, 2, 4, 10-12, 14, 15, 17, 23-25, 27, 78, 83, 88, 89, 91-95, and 97-101 remain pending in this application. Claims 1 and 14 are the sole independent claims.

As an initial matter, Applicants would like to thank Examiners Lloyd and Hindenburg for the courtesy of the telephone interview conducted with the Applicants' representatives on February 17, 2009. During the interview, the pending claims and the rejections based on U.S. Patent No. 6,695,791 to Gonzalez ("Gonzalez") and U.S. Patent No. 4,649,904 to Krauter et al. ("Krauter") were discussed. Proposed amendments to the claims were also discussed. The amendments to the claims set forth above and the remarks made herein are consistent with discussion and agreements made during the interview. Applicants' representatives were informed that a reply, filed in response to the final Office Action mailed November 25, 2008 ("the Office Action") and filed concurrently with a Request for Continued Examination ("RCE"), would not result in the next Office Action being made final.

On pages 3-10 of the final Office Action, claims 1-12, 14-25, 27, 79-82, and 84-89 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over International Publication No. WO/0130242 to Paternuosto ("Paternuosto") alone or in view of one of U.S. Patent No. 5,662,671 to Barbut et al. ("Barbut"); U.S. Patent

No. 2,778,357 to Leibinger et al. ("Leibinger"); and U.S. Patent No. 4,763,669 to Jaeger ("Jaeger"). While Applicants do not necessarily agree that any combination of Paternuosto, Barbut, Leibinger, and Jaeger renders obvious any of the aforementioned claims, solely in the interest of expediting prosecution of this application, Applicants have amended each of independent claims 1 and 14 to include certain subject matter of dependent claims 90 and 96, respectively. Accordingly, the Section 103(a) rejections in view of any combination of Paternuosto, Barbut, Leibinger, and Jaeger are now moot.

On page 10 of the final Office Action, claims 90, 93-96 and 99-101 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Paternuosto as applied to claims 1-7, 9-12, 14-20, 22-25, 27, 79, 80, 84, 85, and 89 and further in view of U.S. Patent No. 6,695,791 to Gonzalez ("Gonzalez"). Independent claims 1 and 14 have been amended to include certain subject matter of dependent claims 90 and 96, respectively. Insofar as this rejection is applied to amended independent claims 1 and 14, Applicants respectfully traverse the rejection.

No combination of Paternuosto and Gonzalez discloses the claimed invention. For example, each of as-amended independent claims 1 and 14 recites a medical device comprising, among other aspects, "a nozzle within the elongate member between the open bottom of the elongate member and the receiving cavity, wherein the nozzle extends from the open bottom of the elongate member into and within the receiving cavity." No combination of Paternuosto and Gonzalez discloses or teaches at least this aspect of the claimed invention in combination with other aspects of each of respective independent claims 1 and 14.

Page 10 of the final Office Action admits that “Paternuosto does not disclose a flushing device.” The Office Action then asserts, however, that Gonzalez allegedly remedies the admitted deficiency of Paternuosto. In particular, the Office Action asserts that vacuum tube 20, as shown in Fig. 2 of Gonzalez, corresponds to the claimed elongate member, the inside of vacuum tube 20 corresponds to the claimed receiving cavity, end of coupling 28 corresponds to the claimed open bottom, and second end 24 corresponds to the claimed nozzle. Even if that is true, which Applicants do not necessarily concede, second end 24 does not “extend[] from the open bottom of the elongate member into and within the receiving cavity,” as recited in each of as-amended independent claims 1 and 14. Indeed, no portion of second end 24 extends into and within vacuum tube 20.

Accordingly, for at least this reason, Applicants request reconsideration and withdrawal of the Section 103(a) rejection based on Paternuosto and Gonzalez.

On page 12 of the final Office Action, claims 78, 83, 90-93, 95-99 and 101 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Paternuosto as applied to claims 1-7, 9-12, 14-20, 22-25, 27, 79, 80, 84, 85, and 89 and further in view of U.S. Patent No. 4,649,904 to Krauter et al. (“Krauter”). As noted above, independent claims 1 and 14 have been amended to include certain subject matter of dependent claims 90 and 96, respectively. Insofar as this rejection is applied to amended independent claims 1 and 14, Applicants respectfully traverse the rejection.

No combination of Paternuosto and Krauter discloses the claimed invention. For example, each of as-amended independent claims 1 and 14 recites a medical device comprising, among other aspects, “a connector at the open bottom of the elongate

member.” No combination of Paternuosto and Krauter discloses or teaches at least this aspect of the claimed invention in combination with other aspects of each of respective independent claims 1 and 14.

In formulating the rejection, the Office Action relies solely on Krauter for the alleged disclosure of a “flushing device.” More particularly, the Office Action asserts:

Krauter et al. teach a flushing device (Figure 2) comprising:
an elongate member (portion of syringe 36 shown in Figure 2) defining a receiving cavity (portion of syringe 36 between hollow male projection 37 and outer tube 38 [of] Figure 2);
... an open bottom (most proximal portion shown of hole inside hollow male projection 37 [of] Figure 2); [and] a connector (luer lock fitting [shown in] Figure 2 and [discussed at] Column 3 lines 29-42).

See page 13 of the final Office Action. Even if those relationships are correct, which Applicants do not necessarily concede, the alleged connector (i.e., luer lock fitting of Fig. 2) is not “at the open bottom of the elongate member.” Instead, as shown in Fig. 2, the alleged connector is located at the distalmost part of projection 37 of syringe 36.

Accordingly, for at least this reason, Applicants request reconsideration and withdrawal of the Section 103(a) rejection based on Paternuosto and Krauter.

Applicants further submit that claims 2-12, 15-25, 27, 78-89, 91-95, and 97-101 depend either directly or indirectly from independent claims 1 and 14, and are therefore allowable for at least the same reasons that their respective independent claims are allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor suggested by the cited references, and therefore at least some also are separately patentable.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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